

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARQUEZ B. PERRY,	:	Case No. 1:20-cv-30
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	
vs.	:	Magistrate Judge Karen L. Litkovitz
	:	
WARDEN WARREN	:	
CORRECTIONAL INSTITUTION, <i>et</i>	:	
<i>al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 47)**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on December 4, 2020, submitted a Report and Recommendation. (Doc. 47). No objections were filed.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court finds that the Report and Recommendation (Doc. 47) should be and is hereby adopted in its entirety.¹

¹ As noted by the Magistrate Judge, nothing in this Decision and Entry prevents plaintiff from filing a new action against the appropriate individuals at SOCF to the extent that plaintiff is seeking to bring an Eighth Amendment claim against those officials. This is appropriate only after plaintiff has sought protective control under Ohio Admin. Code § 5120-9-14 and exhausted his administrative remedies under Ohio Admin. Code § 5120-9-31.

Accordingly, for the reasons stated above:

1. The Report and Recommendation (Doc. 47) is hereby **ADOPTED**;
2. Plaintiff's motion for default judgment (Doc. 38) is **DENIED**;
3. Plaintiff's motion for preliminary injunction and temporary restraining order (Doc. 40) is **DENIED**; and
4. The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal of this Order would not be taken in good faith and therefore Plaintiff is denied leave to appeal *in forma pauperis*.

IT IS SO ORDERED.

Date: 1/27/2021

s/Timothy S. Black
Timothy S. Black
United States District Judge